

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**KATHLEEN P. ROCHE,**

**Plaintiff,**

**v.**

**INOVA HEALTH CARE SERVICES,**

**Defendant.**

**Case No.** \_\_\_\_\_

**DEFENDANT’S NOTICE OF REMOVAL**

Defendant Inova Health Care Services (“Inova” or “Defendant”), by and through its attorneys, files this Notice of Removal in accordance with 28 U.S.C. §§ 1331, 1332, 1441, and 1446, and removes this action from the Circuit Court for Fairfax County, Virginia, where the lawsuit is now pending, to the United States District Court for the Eastern District of Virginia. This removal is based upon the following:

1. On or about May 18, 2023, Plaintiff Kathleen P. Roche (“Plaintiff”) commenced a civil action against Inova in the Circuit Court for Fairfax County, Virginia, entitled *Kathleen P. Roche v. Inova Health Care Services*, Case No. CL-2023-007585 (the “State Court Action”).

2. Inova was served with the Complaint, a summons, and a Civil Case Coversheet on May 25, 2023. **See Exhibit A**, Complaint, Summons, and Civil Case Coversheet. The papers mentioned in the preceding sentence constitute all process, pleadings, and orders served upon Inova in this action to the present date. 28 U.S.C. § 1446(a).

3. This Notice of Removal is being filed within 30 days of the date on which Inova was served with the Complaint and Summons in the State Court Action. 28 U.S.C. § 1446(b).

4. This Court has federal question jurisdiction over Count I of the Complaint pursuant

to 28 U.S.C. § 1331 because that claim “aris[es] under the . . . laws . . . of the United States.” 28 U.S.C. § 1331. Specifically, Plaintiff is pursuing a claim of age discrimination under the federal Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. §§ 621 *et seq.* See **Exhibit A**, Complaint, at pp. 5-6, ¶¶ 31-37.

5. Moreover, this Court has supplemental jurisdiction over Count II of the Complaint (and thus has jurisdiction over the entire Complaint) pursuant to 28 U.S.C. § 1367 because Plaintiff is pursuing a claim of age discrimination under the Virginia Human Rights Act (VHRA), Va. Code §§ 2.2-3900 *et seq.*, which claim is “so related to claims in the action within such original jurisdiction [*i.e.*, the ADEA claim in Count I] that they form part of the same case or controversy” between the parties. 28 U.S.C. § 1367(a).

6. This Court also has diversity jurisdiction over the Complaint pursuant to 28 U.S.C. § 1332 because the parties are “citizens of different states” and “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.” 28 U.S.C. § 1332(a).

7. Plaintiff asserts she is a citizen of Maryland. See **Exhibit A**, Complaint, at ¶ 7.

8. Inova Health Care Services is a citizen of Virginia, as it is incorporated in the Commonwealth and maintains its principal place of business in the Commonwealth. See *id.* at ¶ 8; see also **Exhibit B**, Entity Information, Virginia State Corporation Commission (SCC) Clerk’s Information System.

9. “Courts generally determine the amount in controversy by reference to the plaintiff’s complaint.” *JTH Tax, Inc. v. Frashier*, 624 F.3d 635, 638 (4th Cir. 2010) (citation omitted). For her claims, Plaintiff demands \$1,000,000 in monetary damages, placing more than \$75,000 in controversy. See **Exhibit A**, Civil Case Coversheet; see also *id.* at p. 5 (seeking “up to \$500,000.00” in lost wages and benefits in Count I of the Complaint, with “[a]n equal amount . . .

as liquidated damages”); *id.* at p. 7 (seeking “[c]ompensatory damages, including back pay and lost benefits, in an amount up to \$1,000,000[,]” plus punitive damages, attorney fees, and interest in Count II of the Complaint).

10. Although Inova denies wrongdoing and liability and denies that Plaintiff may recover damages against it in the lawsuit, “[t]he key inquiry in determining whether the amount-in-controversy requirement is met is not what the plaintiff will actually recover but an estimate of the amount that will be put at issue in the course of the litigation.” *Scott v. Cricket Communications, LLC*, 865 F.3d 189, 196 (4th Cir. 2017) (citation omitted). As the Fourth Circuit Court of Appeals has stated, “unless it is plain from the complaint that an amount less than the jurisdictional amount is all that is at issue, the district court has jurisdiction over the case.” *Shanaghan v. Cahill*, 58 F.3d 106, 112 (4th Cir. 1995). Based on the four corners of the Complaint in this case, “the amount that will be put at issue” plainly exceeds \$75,000. *Scott*, 865 F.3d at 196.

11. The United States District Court for the Eastern District of Virginia embraces the district where the state court action is pending. 28 U.S.C. § 127(a). Therefore, this Notice of Removal has been properly filed within this District and venue is proper. *See* 28 U.S.C. § 1441(a) (“[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”)

12. Upon filing this Notice of Removal, Defendant will give prompt written notice of its filing to Plaintiff as the adverse party and will file a copy of the Notice of Removal with the Clerk of Court of the Circuit Court of Fairfax County. *See* 28 U.S.C. § 1446(d). Attached to this Notice as **Exhibit C** is a copy of the Notice to the Circuit Court.

WHEREFORE, Inova respectfully requests that the State Court Action be removed, and hereinafter proceed in the United States District Court for the Eastern District of Virginia.

Dated: June 22, 2023

Respectfully submitted,

/s/ Nancy N. Delogu

Nancy N. Delogu (VSB No. 37826)

LITTLER MENDELSON, P.C.

815 Connecticut Avenue NW

Suite 400

Washington, DC 20006.4046

Telephone: 202.842.3400

Facsimile: 202.842.0011

nndelogu@littler.com

Alexander P. Berg (VSB No. 95557)

LITTLER MENDELSON, P.C.

1800 Tysons Boulevard

Suite 500

Tysons Corner, VA 22102

Telephone: 703.442.8425

Facsimile: 703.442.8428

aberg@littler.com

*Counsel for Defendant*

*Inova Health Care Services*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 22, 2023, a copy of the foregoing **DEFENDANT'S NOTICE OF REMOVAL** was filed with the Clerk of Court using the CM/ECF system, and served by U.S.

Mail and E-mail on:

Timothy P. Bosson, Esq. (VSB: 72746)  
Isaiah R. Kalinowski, Esq. (VSB: 71125)  
Arie M. Jones, Esq. (VSB: 98248)  
Bosson Legal Group, PC  
8300 Arlington Blvd., Suite B2  
Fairfax, VA 22031  
[rose@bossonlaw.com](mailto:rose@bossonlaw.com)  
[tbosson@bossonlaw.com](mailto:tbosson@bossonlaw.com)  
[ajones@bossonlaw.com](mailto:ajones@bossonlaw.com)  
Ph: (571) 775-2529  
Fax: (571) 775-2521

*Counsel for Plaintiff*

/s/ Nancy N. Delogu  
Nancy N. Delogu